

105TH CONGRESS
1ST SESSION

H. R. 2959

To provide a civil claim for individuals who are victims of crimes motivated by actual or perceived race, color, gender, religion, national origin, ethnicity, sexual orientation, or physical or mental disability.

IN THE HOUSE OF REPRESENTATIVES

NOVEMBER 8, 1993

Mr. NADLER introduced the following bill; which was referred to the
Committee on the Judiciary

A BILL

To provide a civil claim for individuals who are victims of crimes motivated by actual or perceived race, color, gender, religion, national origin, ethnicity, sexual orientation, or physical or mental disability.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Bias Crimes Com-
5 pensation Act of 1997”.

6 **SEC. 2. CIVIL RIGHTS.**

7 (a) FINDINGS.—The Congress finds that—

1 (1) bias-motivated crimes of violence constitute
2 crimes in violation of the victim’s right to be free
3 from discrimination on the basis of actual or per-
4 ceived race, color, gender, religion, national origin,
5 ethnicity, sexual orientation, or physical or mental
6 disability;

7 (2) State and Federal criminal laws do not ade-
8 quately protect against the bias element of bias-mo-
9 tivated crimes of violence, which separates these
10 crimes from acts of random violence, nor do those
11 laws adequately provide victims of bias-motivated
12 crimes of violence the opportunity to vindicate their
13 interests;

14 (3) existing bias and discrimination in the
15 criminal justice system often deprive victims of bias-
16 motivated crimes of violence of equal protection of
17 the laws and the redress to which they are entitled;

18 (4) bias-motivated crimes of violence have a
19 substantial adverse effect on interstate commerce, by
20 deterring potential victims from traveling interstate,
21 from engaging in employment in interstate business,
22 and from transacting with business, and in places
23 involved, in interstate commerce;

24 (5) bias-motivated crimes of violence have a
25 substantial adverse effect on interstate commerce, by

1 diminishing national productivity, increasing medical
2 and other costs, and decreasing the supply of and
3 the demand for interstate products;

4 (6) a Federal civil rights claim, as created in
5 this section, is necessary to guarantee equal protec-
6 tion of the laws and to reduce the substantial ad-
7 verse effects of bias-motivated crimes of violence on
8 interstate commerce; and

9 (7) victims of bias-motivated crimes of violence
10 have a right to equal protection of the laws, includ-
11 ing a system of justice that is unaffected by bias or
12 discrimination and that, at every relevant stage,
13 treats such crimes as seriously as other violent
14 crimes.

15 (b) RIGHT.—All individuals within the United States,
16 and the special maritime and territorial jurisdiction of the
17 United States, shall have the right to be free from bias-
18 motivated crimes of violence.

19 (c) CLAIM.—Any person, including a person who acts
20 under color of any statute, ordinance, regulation, custom,
21 or usage of any State, who deprives an individual of the
22 right secured by subsection (b) shall be liable to the indi-
23 vidual injured, in a civil action in any court of competent
24 jurisdiction, for compensatory damages of not less than

1 \$100,000, punitive damages, injunctive relief, declaratory
2 relief, or any combination thereof.

3 (d) LIMITATION, PROCEDURE, AND RULE OF CON-
4 STRUCTION.—

5 (1) LIMITATION.—Nothing in this section enti-
6 tles an individual to a claim under subsection (c) for
7 random acts of violence unrelated to bias or for acts
8 that cannot be demonstrated, by a preponderance of
9 the evidence, to be bias-motivated crimes of violence.

10 (2) NO PRIOR CRIMINAL ACTION.—Nothing in
11 this section requires a prior criminal complaint,
12 prosecution, or conviction to establish the necessary
13 elements of a claim under subsection (c).

14 (3) CONCURRENT JURISDICTION.—The Federal
15 and State courts shall have concurrent jurisdiction
16 over actions brought pursuant to this section.

17 (4) RULE OF CONSTRUCTION.—Neither section
18 1367 of title 28 of the United States Code nor sub-
19 section (c) of this section shall be construed, by rea-
20 son of a claim arising under such subsection, to con-
21 fer on the courts of the United States supplemental
22 jurisdiction of any State law claim seeking the estab-
23 lishment of a divorce, alimony, equitable distribution
24 of marital property, or child custody decree.

25 (e) DEFINITIONS.—For purposes of this section—

1 (1) the term “bias-motivated” means committed
2 because of, on the basis of, and due to (at least in
3 part) an animus based on, actual or perceived race,
4 color, gender, religion, national origin, ethnicity, sex-
5 ual orientation, or physical or mental disability of
6 the victim;

7 (2) the term “crime of violence” means—

8 (A) an act or series of acts that would con-
9 stitute State or Federal offense of a kind de-
10 scribed in section 16 of title 18, United States
11 Code, and punishable by a maximum term of
12 imprisonment exceeding one year, but excludes
13 an offense against property that presents no se-
14 rious risk of physical or mental disability injury
15 to an individual; or

16 (B) one or more actions that would con-
17 stitute such offense but for the relationship be-
18 tween the person who takes such actions and
19 the individual against whom such actions are
20 taken;

21 whether or not such offense or such actions result in
22 criminal charges, prosecution, or conviction and
23 whether or not such actions were taken within the
24 United States or the special maritime and territorial
25 jurisdiction of the United States;

1 (3) the term “disability” has the meaning given
2 it in section 3(2) of the Americans With Disabilities
3 Act of 1990 (42 U.S.C. 12102(2)); and

4 (4) the term “special maritime and territorial
5 jurisdiction of the United States” has the meaning
6 given such term in section 7 of title 18, United
7 States Code.

8 (f) LIMITATION ON REMOVAL.—Section 1445 of title
9 28, United States Code, is amended by adding at the end
10 the following:

11 “(e) A civil action in any State court arising under
12 section 2 of the Bias Crimes Compensation Act of 1993
13 may not be removed to any district court of the United
14 States.”.

15 (g) AUTHORITY TO AWARD ATTORNEY’S FEE.—Sec-
16 tion 722(b) of the Revised Statutes of the United States
17 (42 U.S.C. 1988(b)) is amended by inserting “section 2
18 of the Bias Crimes Compensation Act of 1993,” after
19 “Public Law 92–318,”.

○